

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 A.M., AUGUST 27, 2003
REGIONAL WATER BOARD OFFICE
HEARING ROOM
5550 SKYLANE BOULEVARD
SANTA ROSA, CALIFORNIA

ITEM: 14

SUBJECT: PUBLIC HEARING: Order No. R1-2003-0081 to consider whether to affirm, reject, or modify a Complaint for Administrative Civil Liability issued on July 10, 2003, and/or take other enforcement action in the Matter of Hanes Ranch Inc. and Mr. John Hanes, President, Hanes Ranch Inc., Mendocino County.

DISCUSSION

The purpose of this hearing is to consider testimony regarding Administrative Civil Liability Complaint No. R1-2003-0081 issued to Hanes Ranch Inc., and Mr. John Hanes, President of Hanes Ranch Inc., (hereinafter collectively referred to as the Dischargers), in Mendocino County. The Dischargers have owned and controlled in excess of 5,000 acres of timberland in the Navarro and Garcia River watersheds since 1973.

The Dischargers submitted three separate timber harvest plans (THPs) to the California Department of Forestry during the summer of 2002. The THP areas and associated road systems (hereinafter referred to as the Property) total in excess of 575 acres in the Navarro River watershed. Multiple pre-harvest inspections conducted between the months of June and September of 2002 revealed numerous violations of North Coast Regional Water Quality Control Plan (Basin Plan) prohibitions as listed in the Action Plan for Logging, Construction, and Associated Activities (4-28.00). Observed violations included the discharge and threatened discharge of earthen material from watercourse crossings, road fill failures, inadequate road drainage, watercourse diversions, and numerous untreated surface erosion sites. During the pre-harvest inspections, Regional Water Board staff requested on several occasions submittal of an adequate erosion control plan to address the discharges and threatened discharges from the Property. No adequate erosion control plan was submitted during the timber harvest review process. All three of the THPs were ultimately either withdrawn by the Dischargers' representative or denied by the CDF as incorrect, incomplete or misleading in a material way, insufficient to evaluate significant environmental effects, or would result in a violation of the Basin Plan.

On October 18, 2002, the Executive Officer issued Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102 (hereinafter referred to as the "CAO"). The CAO (Attachment A) required submittal of technical reports pursuant to California Water Code (CWC) Section 13267 (b). The required technical reports included a Short-Term Emergency Erosion Control Plan, a Long-Term Erosion Control Plan, and monthly monitoring reports. Additionally, the CAO required the Dischargers to cleanup and abate soil discharges and threatened soil discharges associated with the Property pursuant to CWC Section 13304 (a).

During the months following issuance of the CAO, the Dischargers failed to submit the required plans and reports. Regional Water Board staff contacted the Dischargers on multiple occasions via telephone, in person, and through mail correspondence regarding the requirements contained in the CAO. Regardless of the continued contact by Regional Water Board staff, the Dischargers have failed to submit any technical reports as required by the Executive Officer's CAO. Permission was also requested on several occasions to access the Property and assess compliance with the CAO, including any cleanup and abatement activities undertaken. The Dischargers did not grant permission to access the property.

Subsequently, an inspection warrant was obtained through the Mendocino County Superior Court, and on April 1 and 2, 2003, staff from the Regional Water Board, the California Department of Forestry and the Department of Fish and Game, conducted an inspection of the Property. While conducting this inspection, Regional Water Board staff observed that the minimal emergency erosion control measures undertaken on the Property were largely inadequate in addressing the significant amount of sediment discharging into waters of the state from the Property and that additional discharges had occurred since the pre-harvest inspections and since the issuance of the CAO.

During the April 1 and 2, 2003 inspections, the volumes of sediment discharged into watercourses were conservatively estimated to exceed 500 cubic yards, or 100,000 gallons, of waste. A minimum of 50 cubic yards was estimated to have been delivered to waters of the state during the winter 2002-2003, after the CAO was issued.

On July 10, 2003, Administrative Civil Liability Complaint No. R1-2003-0081 (Attachment B) was issued to the Dischargers. As required by law, the maximum potential civil liability was calculated, totaling \$2,372,000 for failure to comply with the requirements of the CAO. Under the facts and circumstances in this case, the Executive Officer proposes that the Dischargers be assessed a civil liability in the amount of \$100,000 for failure to submit technical reports and for sediment discharges into waters of the state in violation of the CAO and Basin Plan.

Attachment A	Cleanup and Abatement and Request for Technical Reports Order No. R1-2002-0102
Attachment B	Administrative Civil Liability Complaint No. R1-2003-0081
Attachment C	Correspondence from Hanes Ranch, Inc.
Attachment D	Correspondence from Regional Water Board staff
Attachment E	Notice of Evidentiary Hearing

**PRELIMINARY STAFF
RECOMMENDATION:**

Consider all testimony regarding Administrative Civil Liability Complaint No. R1-2003-0081 and determine whether to affirm, reject or modify the Complaint by issuing Order No. R1-2003-0093.